

as such, to be sold for his peculiar benefit and advantage. But the advantage of a sale of the realty, in such cases, is most manifest; for, if, instead of ordering a sale, the court were to pass a decree of foreclosure, the whole estate would be lost to the infant; whereas, if it should be worth more than the mortgage debt, by a sale, the surplus would thus be saved, and returned to him. Hence it is obvious, that in all such cases the infant, by a sale, may gain but cannot lose; and therefore the sale, or conversion of such real estate into personalty for the payment of the debt must be advantageous to him. (*w*)

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(*w*) *Goodier v. Ashton*, 18 Ves. 83; *Monday v. Monday*, 1 Ves. & Bea. 223; *Brookfield v. Bradley*, 4 Cond. Chan. Rep. 298; *Scholefield v. Heafield*, 11 Cond. Chan. Rep. 528; *Powel Mort.* 983, 985.

*JONES v. BETSWORTH*.—This bill was filed on the 3d of September, 1795, by Thomas Jones against Samuel Betsworth, for the recovery of a mortgage debt by a sale of the mortgaged property. The defendant answered, and the case was brought on for a final hearing.

17th January, 1798.—*HANSON, Chancellor*.—The said cause standing ready for decision, and being submitted; the bill, answer and all other proceedings were by the Chancellor read and considered; and it appearing to him, that the mortgage in the bill mentioned was duly executed, that there is due to the complainant, on the said mortgage, the sum by him stated to be due, with interest from the time of settlement; that it is reasonable to have the said sum, with interest and costs, raised by a sale of the mortgaged lands; unless the defendant, within such time as shall be allowed by this court, shall discharge the said principal, interest and costs.

It is thereupon *Decreed*, that unless the defendant, on the 9th day of February, 1799, shall bring into this court to be paid to the complainant, or shall pay to the complainant the costs of this suit, and the sum of £771 18s. 1d., which is the sum to be then due for the said principal of £777 19s. 2d., with interest from the 9th day of May, 1793, deducting the sum of £274 9s. 0d., paid on the 30th day of April, 1794; or unless the said defendant shall at any time before the said 9th day of February, 1799, bring into this court to be paid to the complainant, or pay to the said complainant, his costs of suit, together with the aforesaid sum of £777 19s. 2d., with interest as aforesaid, until the time of bringing in, deducting the payment as aforesaid, made on the 30th of April, 1794, the mortgaged lands, viz: *Betsworth's Choice*, 52½ acres; *Providence*, 215½ acres; *Colepit*, 50 acres; *Baldrige*, 80 acres; and another tract, 2½ acres, lying in Somerset county, or so much thereof as shall be necessary, shall be sold for discharging the aforesaid principal, interest and costs. And Lambert Hyland, of said county, is hereby appointed trustee, &c. And the terms of sale shall be that the purchase money, at the election of the purchaser or purchasers, shall either be paid down to the trustee immediately after the sale, or be brought into this court, or paid to the said trustee immediately after the Chancellor's ratification of the sale, which cannot be absolutely valid until ratified by the Chancellor, &c.

In consideration of the defendant's allegation on oath, respecting the value of the lands, and of the payment by him made, as stated by the complainant, the Chancellor has allowed a considerable time, as is usual in such cases, for paying or bringing in the principal, interest and costs, before the sale for ready money can take place. It is to be remarked, that it is not in the Chancellor's power, without